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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRETT ANDEREW NACE,
Plaintiff,

v.

MARTIN O'MALLEY¹,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

No. 1:23-CV-00997 (SKO)

**STIPULATION AND UNOPPOSED
MOTION FOR AWARD AND PAYMENT
OF ATTORNEYS FEES AND COSTS;
ORDER**

(Doc. 18)

¹ Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure and 42 U.S.C. §405(g), Martin O'Malley is hereby substituted as the named defendant in the above-captioned action.

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
2 attorneys, subject to the approval of the Court, that Brett Anderew Nace (Plaintiff) be awarded
3 attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412 (d), in the amount
4 of eight thousand three hundred and seventy-eight dollars and twenty-four cents (\$8,378.24). This
5 represents compensation for legal services rendered on behalf of Plaintiff by counsel in
6 connection with this civil action, in accordance with 28 U.S.C. §2412 (d). In addition, pursuant to
7 28 U.S.C. §1920, Plaintiff shall be reimbursed for costs incurred in the amount of four hundred
8 and two dollars (\$402.00).

9 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider
10 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*
11 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
12 attorney fees are subject to any offset allowed under the United States Department of the
13 Treasury's Offset Program. After the Order for EAJA fees is entered, the government will
14 determine whether they are subject to any offset.

15 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
16 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the
17 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively
18 "Plaintiff's counsel"), pursuant to the assignment executed by Plaintiff. Any and all payments
19 made shall be delivered to Plaintiff's counsel via electronic transfer.

20 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
21 attorney fees and costs and does not constitute an admission of liability on the part of Defendant
22 under EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to,
23 any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney
24 fees and expenses in connection with this action.

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This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. §406(b), subject to the provisions of the EAJA.

Respectfully submitted,

Dated: October 11, 2024

NEWEL LAW

By: Melissa Newel
Melissa Newel
Attorney for Plaintiff
BRETT ANDEREW NACE

Dated: October 11, 2024

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Office of Program Litigation, Office 7
Social Security Administration

By: Caspar Chan*
CASPAR CHAN
(*Authorized by email dated 10/10/2024
Special Assistant U.S. Attorney
Attorneys for Defendant

ORDER

Pursuant to 28 U.S.C. §2412, attorney fees in the amount of eight thousand three hundred and seventy-eight dollars and twenty-four cents (\$8,378.24) and costs, pursuant to 28 U.S.C. §1920, in the amount of four hundred and two dollars (\$402) shall be awarded to Plaintiff subject to the terms of the Stipulation and Unopposed Motion (Doc. 18).

IT IS SO ORDERED.

Dated: October 15, 2024

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE